

Update: Traffic Benchbook— Third Edition, Volume 3

CHAPTER 1

Introduction to Vehicle Code §625 and §904

1.2 Highlights of Recent Legislation

I. Registration Denial

Effective December 27, 2005, 2005 PA 317 amended MCL 257.219(1)(d). Replace the introductory paragraph and the first bullet near the middle of page 7 with the following text:

The Secretary of State shall refuse issuance of a registration or a transfer of registration if the driver's license of the vehicle's owner, co-owner, lessee, or co-lessee is suspended, revoked, or denied for one of the following offenses:

- A third or subsequent violation of §625 or §625m, a local ordinance substantially corresponding to §625 or §625m, or a law of another state substantially corresponding to §625 or §625m.

CHAPTER 2

Procedures in Drunk Driving and DWLS Cases

2.11 Vehicle Sanctions

C. Registration Denial

Effective December 27, 2005, 2005 PA 317 amended MCL 257.219(1)(d). Replace the introductory paragraph and the first bullet at the top of page 104 with the following text:

The Secretary of State shall refuse issuance of a registration or a transfer of registration if the driver's license of the vehicle's owner, co-owner, lessee, or co-lessee is suspended, revoked, or denied for one of the following offenses:

- A third or subsequent violation of §625 or §625m, a local ordinance substantially corresponding to §625 or §625m, or a law of another state substantially corresponding to §625 or §625m.

Also, eliminate the citation to MCL 257.219(2)(d) following the second bullet on page 104.

CHAPTER 3

Section 625 Offenses

3.1 Operating While Impaired (OWI)—§625(1)

D. Penalties

3. Third or Subsequent Offense

Registration Denial—

Effective December 27, 2005, 2005 PA 317 amended MCL 257.219(1)(d). Replace the existing paragraph on page 121 with the following text:

Registration Denial—The Secretary of State shall refuse issuance of a registration or a transfer of registration if the driver's license of the vehicle's owner, co-owner, lessee, or co-lessee is suspended, revoked, or denied for a third or subsequent violation of §625 or §625m, a local ordinance substantially corresponding to §625 or §625m, or a law of another state substantially corresponding to §625 or §625m.

CHAPTER 3

Section 625 Offenses

3.3 Operating While Visibly Impaired (OWVI)—§625(3)

C. Penalties

3. Third or Subsequent Offense

Registration Denial—

Effective December 27, 2005, 2005 PA 317 amended MCL 257.219(1)(d). Replace the existing paragraph on page 129 with the following text:

Registration Denial—The Secretary of State shall refuse issuance of a registration or a transfer of registration if the driver's license of the vehicle's owner, co-owner, lessee, or co-lessee is suspended, revoked, or denied for a third or subsequent violation of §625 or §625m, a local ordinance substantially corresponding to §625 or §625m, or a law of another state substantially corresponding to §625 or §625m.

CHAPTER 3

Section 625 Offenses

3.4 OWI or OWVI Causing Death of Another—§625(4)

D. Penalties

3. Second or Subsequent Offense

Registration Denial—

Effective December 27, 2005, 2005 PA 317 amended MCL 257.219(1)(d). Replace the existing paragraph on page 135 with the following text:

Registration Denial—The Secretary of State shall refuse issuance of a registration or a transfer of registration if the driver's license of the vehicle's owner, co-owner, lessee, or co-lessee is suspended, revoked, or denied for a third or subsequent violation of §625 or §625m, a local ordinance substantially corresponding to §625 or §625m, or a law of another state substantially corresponding to §625 or §625m.

CHAPTER 3

Section 625 Offenses

3.5 OWI or OWVI Causing Serious Impairment of a Body Function—§625(5)

C. Penalties

3. Second or Subsequent Offense

Registration Denial—

Effective December 27, 2005, 2005 PA 317 amended MCL 257.219(1)(d). Replace the existing paragraph on page 139 with the following text:

Registration Denial—The Secretary of State shall refuse issuance of a registration or a transfer of registration if the driver's license of the vehicle's owner, co-owner, lessee, or co-lessee is suspended, revoked, or denied for a third or subsequent violation of §625 or §625m, a local ordinance substantially corresponding to §625 or §625m, or a law of another state substantially corresponding to §625 or §625m.

CHAPTER 3

Section 625 Offenses

3.7 Child Endangerment—§625(7)

C. Penalties

3. Vehicle Sanctions

Registration Denial—

Effective December 27, 2005, 2005 PA 317 amended MCL 257.219(1)(d). Beginning at the bottom of page 146 and continuing on page 147, replace the existing paragraph with the following text:

Registration Denial—The Secretary of State shall refuse issuance of a registration or a transfer of registration if the driver's license of the vehicle's owner, co-owner, lessee, or co-lessee is suspended, revoked, or denied for a third or subsequent violation of §625 or §625m, a local ordinance substantially corresponding to §625 or §625m, or a law of another state substantially corresponding to §625 or §625m.

CHAPTER 3

Section 625 Offenses

3.8 Operating With the Presence of Drugs—§625(8)

C. Penalties

3. Third or Subsequent Offense

Registration Denial—

Effective December 27, 2005, 2005 PA 317 amended MCL 257.219(1)(d). Replace the existing paragraph on page 151 with the following text:

Registration Denial—The Secretary of State shall refuse issuance of a registration or a transfer of registration if the driver's license of the vehicle's owner, co-owner, lessee, or co-lessee is suspended, revoked, or denied for a third or subsequent violation of §625 or §625m, a local ordinance substantially corresponding to §625 or §625m, or a law of another state substantially corresponding to §625 or §625m.

CHAPTER 5

Violations of Vehicle Sanctions

5.4 Obtaining or Transferring a Vehicle to Circumvent Vehicle or License Sanctions—§233

A. Unlawful Acquisition of a Vehicle

Effective December 27, 2005, 2005 PA 317 amended MCL 257.233(6). Near the middle of page 170, replace the quoted paragraph below the second bullet with the following text:

“A person whose operator’s or chauffeur’s license is suspended, revoked, or denied for, or who has never been licensed by this state and was convicted for, a third or subsequent violation of section 625 or 625m, of a local ordinance substantially corresponding to section 625 or 625m, or of a law of another state substantially corresponding to section 625 or 625m, or for a fourth or subsequent suspension or revocation under section 904 shall not purchase, lease, or otherwise acquire a motor vehicle during the suspension, revocation, or denial period. A person who violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both.”

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CHAPTER 2

Procedures in Drunk Driving and DWLS Cases

2.6 Arraignment/Pretrial Procedures

E. Guilty and Nolo Contendere Pleas

2. Use of Uncounselled Conviction to Enhance Subsequent Charge or Sentence

Effective January 1, 2006, parts of MCR 6.610 relevant to the discussion in this sub-subsection were amended. After the first paragraph on page 57, replace the quoted text of MCR 6.610(E)(2) with the following:

“The court shall inform the defendant of the right to the assistance of an attorney. If the offense charged requires on conviction a minimum term in jail, the court shall inform the defendant that if the defendant is indigent the defendant has the right to an appointed attorney. The court shall also give such advice if it determines that it might sentence to a term of incarceration, even if suspended.” MCR 6.610(E)(2).

“Unless a defendant who is entitled to appointed counsel is represented by an attorney or has waived the right to an attorney, a subsequent charge or sentence may not be enhanced because of this conviction and the defendant may not be incarcerated for violating probation or any other condition imposed in connection with this conviction.” MCR 6.610(F)(2).

CHAPTER 2

Procedures in Drunk Driving and DWLS Cases

2.6 Arraignment/Pretrial Procedures

F. Discovery

1. Mandatory Discovery

Effective January 1, 2006, amendments were made to the discovery provisions in MCR 6.201. At the top of page 64, replace the quoted text of MCR 6.201(A)(1)–(6) with the following:

- ♦ The names and addresses of all lay and expert witnesses that may be called at trial, or in the alternative, a party may disclose the name of the witness and make the person available for interview by the opposing party. MCR 6.201(A)(1). The witness list may be amended without leave of the court up to 28 days before trial. *Id.*
- ♦ Any written or recorded statement concerning the case made by a lay witness who may be called at trial, except that a defendant is not required to disclose his or her own statement. MCR 6.201(A)(2).
- ♦ The curriculum vitae of an expert witness who may be called at trial, and either a report by that expert or a written description of the substance of that expert's proposed testimony, the expert's opinion, and the information on which the expert's opinion is based. MCR 6.201(A)(3).
- ♦ Any criminal record that may be used at trial to impeach a witness. MCR 6.201(A)(4).
- ♦ For any witness who may be called at trial, a list or description of criminal convictions known to the defense attorney or the prosecuting attorney concerning that witness. MCR 6.201(A)(5).
- ♦ A description of and an opportunity to inspect any tangible physical evidence, including any document, photograph, or other paper, that may be introduced at trial. MCR 6.201(A)(6). On request, a party must provide copies of any document, photograph, or other paper. *Id.* The party required to provide those copies may request a hearing on any question of the costs of reproduction. *Id.* For good cause, a party may be given the opportunity to test, without destruction, any tangible physical evidence. *Id.*

Effective January 1, 2006, MCR 6.201(B)(2) and (3) were also amended. Replace the last two quoted paragraphs near the bottom of page 64 with the following text:

“(2) any police report and interrogation records concerning the case, except so much of a report as concerns a continuing investigation;

“(3) any written or recorded statements by a defendant, codefendant, or accomplice pertaining to the case, even if that person is not a prospective witness at trial;”